

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

TERESA DUSCH,)
)
Plaintiff,)
)
v.) Case No. 10-6136-CV-SJ-FJG
)
FARMERS INSURANCE)
COMPANY, INC., et al.,)
)
Defendants.)

ORDER

Before the Court are (1) plaintiff's status report and motion for additional 180-day stay (Doc. No. 31) and (2) plaintiff's motion to dismiss defendant Farmers Insurance Company (Doc. No. 34).

Plaintiff died on February 24, 2011. Since that time, the Court has entered various orders staying deadlines to allow time for plaintiff's estate to determine a course of action. See Orders, Doc. Nos. 24, 26, 28, and 30. In the most recent status report filed on October 5, 2011 (Doc. No. 31), plaintiff's counsel indicates that plaintiff's surviving husband has been appointed administrator of plaintiff's estate, and that counsel is in the process of finalizing the settlement with defendants State Farm and Erik Myhill. Counsel further indicates she does not anticipate proceeding with the claim against defendant Farmers. Plaintiff's counsel requests an additional 180 day stay.

Plaintiff's request for a 180 day stay is opposed by the other parties. Defendant Farmers Insurance Company, Inc. ("Farmers") filed suggestions in opposition to the motion to stay (Doc. No. 32), indicating that the stay as to claims against it has lasted long enough,

and that plaintiff should either dismiss Farmers from the action or the Court should lift the stay so that Farmers can refile its motion to dismiss. In the alternative, Farmers requests a shorter stay extension. Defendants State Farm and Myhill further respond to the motion for stay (Doc. No. 33), indicating that the settlement should be finalized within the next thirty days, and therefore the Court need only grant a 30-day extension of the stay.

Apparently in response to defendant Farmers' request for dismissal, plaintiff filed a motion to dismiss defendant Farmers without prejudice on October 6, 2011 (Doc. No. 34). As defendant Farmers has not filed an answer or motion for summary judgment, dismissal of defendant Farmers without prejudice is proper under Fed. R. Civ. P. 41(a)(1)(A)(I). Accordingly, plaintiff's motion to dismiss defendant Farmers (Doc. No. 34) is **GRANTED**, and all claims against defendant Farmers are **DISMISSED WITHOUT PREJUDICE**.

Upon consideration of plaintiff's motion for stay (Doc. No. 31), the Court will **GRANT** that motion in part. The Court does not believe a 180-day stay to be appropriate in this matter; instead, plaintiff will be granted a 30-day stay. The parties are directed to file either (1) a status report, or (2) a stipulation of dismissal on or before **Wednesday, November 16, 2011**.

IT IS SO ORDERED.

Date: October 19, 2011
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge